


FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**Case
29-CA-127038Date Filed
04/17/14**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer UTF Trucking, Inc./ Fresh Direct	b. Tel. No. 718-928-1226
	c. Cell No.
	f. Fax No.
d. Address (Street, city, state, and ZIP code) 23-30 Borden Avenue Long Island City, NY 11101	g. e-Mail efranklin@freshdirect.com
	h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.) Wholesaler	j. Identify principal product or service Prepared Foods
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(5) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.	
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) UFCW Local 2013 ("Local 2013") and UTF Trucking, Inc./Fresh Direct ("Company") are parties to a Collective Bargaining Agreement ("CBA") covering terms and conditions of employment of Bargaining Unit Employees. Local 2013 has propounded requests for information relating to discipline issued to numerous Bargaining Unit Employees. The Company has failed to provide information requested which is relevant and necessary for Local 2013 to monitor and enforce the CBA. This failure is a violation of 8(a)(5) of the Act.	
3. Full name of party filing charge (if labor organization, give full name, including local name and number) United Food and Commercial Workers Union Local 2013	
4a. Address (Street and number, city, state, and ZIP code) 9235 4th Avenue Brooklyn, NY 11209	4b. Tel. No. 800-393-1135
	4c. Cell No.
	4d. Fax No. 718-745-4690
	4e. e-Mail
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Food and Commercial International Union	
6. DECLARATION	
I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.	
By  (signature of representative of person making charge)	Mark E. Belland, Esquire (Print/type name and title or office, if any)
Tel. No. 856-795-2181	
Office, if any, Cell No.	
Fax No. 856-795-2182	
e-Mail mbelland@obbblaw.com	
Address 1526 Berlin Road, Cherry Hill, NJ 08003	4/16/14 (date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

April 22, 2014

UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 2013
9235 4TH AVENUE
BROOKLYN, NY 111209

Re: UTF Trucking, Inc./ Fresh Direct
Case 29-CA-127038

Dear Sir or Madam:

The charge that you filed in this case on April 16, 2014 has been docketed as case number 29-CA-127038. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney NANCY K. REIBSTEIN whose telephone number is (718)330-2147. If the Board agent is not available,

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlrb.gov. However, the Agency will continue to accept timely filed

paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



JAMES PAULSEN
Regional Director

cc: MARK E. BELLAND, ESQ.
O'Brien, Belland & Bushinsky, LLC
1526 BERLIN ROAD
CHERRY HILL, NJ 08003-3623



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
NLRB
Mobile App

April 22, 2014

Eartha Franklin, Senior Human Resources Business Partner
FRESH DIRECT INC/UTF TRUCKING INC
2330 Borden Ave
Long Island City, NY 11101-4515

Re: UTF Trucking, Inc./ Fresh Direct
Case 29-CA-127038

Dear Ms. Franklin:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be

considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



JAMES PAULSEN
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



Littler Mendelson, P.C.
One Newark Center
8th Floor
Newark, NJ 07102

Alan I. Model
973.848.4740 direct
973.848.4700 main
973.755.0439 fax
amodel@littler.com

April 24, 2014

**VIA REGULAR MAIL
& FAX 718.330.7579**

James Paulsen, Regional Director
National Labor Relations Board, Region 29
Two Metro Tech Center
100 Myrtle Avenue, 5th Floor
Brooklyn, NY 11201-4201

Re: UTF Trucking, Inc.
Case 29-CA-127038

Dear Mr. Paulsen:

This Firm represents UTF Trucking, Inc. in the above-referenced matter. Please direct all future communications to my attention. Kindly do not contact our client without my express permission.

Enclosed please find a completed Notice of Appearance form formalizing our representation. As our client stipulates to being engaged in interstate commerce as defined in the Act, we will not be providing a completed commerce questionnaire.

Very truly yours,

Alan I. Model

AIM 

Enclosure

cc: Fresh Direct

Firmwide: 126629640.1 051456.1000

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

UTF Trucking, Inc.
and

CASE 29-CA-127038

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

UTF Trucking, Inc. _____


IN THE ABOVE-CAPTIONED MATTER. _____

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Alan I. Model, Esq.	
MAILING ADDRESS: Littler Mendelson, P.C., One Newark Center, 8th Floor, Newark, NJ 07102	
E-MAIL ADDRESS: amodel@littler.com	
OFFICE TELEPHONE NUMBER: 973-848-4700	
CELL PHONE NUMBER:	FAX: 973-755.0439
SIGNATURE: 	
DATE: 4/24/14 (Please sign in ink.)	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

June 26, 2014

ALAN I. MODEL, Esq.
LITTLER MENDELSON
One Newark Center
6th Floor
Newark, NJ 07102-5235

Re: UTF Trucking, Inc./ Fresh Direct
Case 29-CA-127038

Dear Mr. Model:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/S/

James G. Paulsen
Regional Director

cc: Eartha Franklin, Senior Human Resources
Business Partner
FRESH DIRECT INC/UTF TRUCKING
INC
2330 Borden Ave
Long Island City, NY 11101-4515

MARK E. BELLAND, ESQ.
O' Brien, Belland & Bushinsky, LLC
1526 BERLIN ROAD
CHERRY HILL, NJ 08003-3623

UNITED FOOD AND COMMERCIAL
WORKERS UNION LOCAL 2013
9235 4TH AVENUE
BROOKLYN, NY 111209

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACECase
29-CA-126894Date Filed
4/16/14**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

b. Name of Employer

UTF Trucking, Inc./ Fresh Direct

b. Tel. No. 718-928-1226

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

23-30 Borden Avenue
Long Island City, NY 11101

e. Employer Representative

Eartha Franklin, Senior Human
Resources Business Partner

g. e-Mail

efranklin@freshdirect.com

h. Number of workers employed

i. Type of Establishment (factory, mine, wholesaler, etc.)
Wholesalerj. Identify principal product or service
Prepared Foods

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

UFCW Local 2013 ("Local 2013") and UTF Trucking, Inc./Fresh Direct ("Company") are parties to a Collective Bargaining Agreement ("CBA") covering terms and conditions of employment of bargaining unit employees. The Company has issued discipline to Bargaining Unit Employee, (b) (6), (b) (7) for engaging in protected concerted activity by discussing terms and conditions of employment with a customer. This is a violation of 8(a)(1) and (3) of the Act.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

United Food and Commercial Workers Union Local 2013

4a. Address (Street and number, city, state, and ZIP code)

9235 4th Avenue
Brooklyn, NY 11209

4b. Tel. No. 800-393-1135

4c. Cell No.

4d. Fax No. 718-745-4690

4e. e-Mail

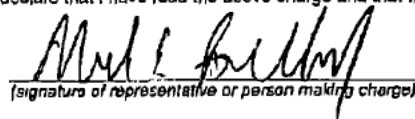
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

United Food and Commercial International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By



(signature of representative or person making charge)

Mark E. Belland, Esquire

(Print type name and title or office, if any)

Tel. No. 856-795-2181

Office, if any, Cell No.

Fax No. 856-795-2182

e-Mail

mbelland@obbblaw.com

Address 1526 Berlin Road, Cherry Hill, NJ 08003

4/16/14

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

April 18, 2014

Eartha Franklin, Senior Human Resources Business Partner
FRESH DIRECT INC/UTF TRUCKING INC
2330 Borden Ave
Long Island City, NY 11101-4515

Re: UTF Trucking, Inc./ Fresh Direct
Case 29-CA-126894

Dear Ms. Franklin:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Brady J. Francisco-FitzMaurice whose telephone number is (718)330-2819. If this Board agent is not available, you may contact Attorney NANCY K. REIBSTEIN whose telephone number is (718)330-2147.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be

considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

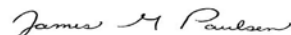
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



JAMES PAULSEN
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

April 18, 2014

UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 2013
9235 4th Ave
Brooklyn, NY 11209-7006

Re: UTF Trucking, Inc./ Fresh Direct
Case 29-CA-126894

Dear Sir or Madam:

The charge that you filed in this case on April 16, 2014 has been docketed as case number 29-CA-126894. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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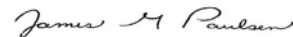
April 18, 2014

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Very truly yours,



JAMES PAULSEN
Regional Director

cc: MARK E. BELLAND, ESQ.
O'Brien, Belland & Bushinsky, LLC
1526 BERLIN ROAD
CHERRY HILL, NJ 08003-3623



Littler Mendelson, P.C.
One Newark Center
8th Floor
Newark, NJ 07102

Alan I. Model
973.848.4740 direct
973.848.4700 main
973.755.0439 fax
amodel@littler.com

April 24, 2014

**VIA REGULAR MAIL
& FAX 718.330.7579**

James Paulsen, Regional Director
National Labor Relations Board, Region 29
Two Metro Tech Center
100 Myrtle Avenue, 5th Floor
Brooklyn, NY 11201-4201

Re: UTF Trucking, Inc.
Case 29-CA-126894

Dear Mr. Paulsen:

This Firm represents UTF Trucking, Inc. in the above-referenced matter. Please direct all future communications to my attention. Kindly do not contact our client without my express permission.

Enclosed please find a completed Notice of Appearance form formalizing our representation. As our client stipulates to being engaged in interstate commerce as defined in the Act, we will not be providing a completed commerce questionnaire.

Very truly yours,

Alan I. Model

AIM (b) (6), (b) (7)(C)

Enclosure

cc: Fresh Direct

Firmwide:126629614.1 051456.1000

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

UTF Trucking, Inc.

and

CASE 29-CA-126894

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

UTF Trucking, Inc.

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Alan I. Model, Esq.

MAILING ADDRESS: Littler Mendelson, P.C., One Newark Center, 8th Floor, Newark, NJ 07102

E-MAIL ADDRESS: amodel@littler.com

OFFICE TELEPHONE NUMBER: 973-848-4700

CELL PHONE NUMBER: _____ FAX: 973-755.0439

SIGNATURE: _____

(Please sign in ink.)

DATE: _____

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
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Fax: (718)330-7579

June 3, 2014

ALAN I. MODEL, ESQ.
LITTLER MENDELSON
ONE NEWARK CENTER
6TH FLOOR
NEWARK, NJ 07102-5235

Re: UTF Trucking, Inc./ Fresh Direct
Case 29-CA-126894

Dear Mr. Model:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/S/

James G. Paulsen
Regional Director

cc:

EARTHA FRANKLIN, SENIOR
HUMAN RESOURCES BUSINESS
PARTNER
FRESH DIRECT INC/UTF TRUCKING
INC
2330 BORDEN AVE
LONG ISLAND CITY, NY 11101-4515

UNITED FOOD & COMMERCIAL
WORKERS UNION, LOCAL 2013
9235 4TH AVE
BROOKLYN, NY 11209-7006

MARK E. BELLAND, ESQ.
O' BRIEN, BELLAND & BUSHINSKY,
LLC
1526 BERLIN ROAD
CHERRY HILL, NJ 08003-3623

FORM EXEMPT UNDER 44 U.S.C. 3512

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER**DO NOT WRITE IN THIS SPACE**

Case

29-CA-127902

Date Filed

04/30/14

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1 EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

UTF Trucking, Inc./Fresh Direct

b. Tel No. 718-928-1226

c. Cell No.

f. Fax No.

d. Address (Street, city, state, and ZIP code)

23-30 Borden Avenue
Long Island City, NY 11101e. Employer Representative
Eartha Franklin, Senior Human
Resources Business Partner

g. e-Mail

efranklin@freshdirect.com

h. Number of workers employed

i. Type of Establishment (factory, mine, wholesaler, etc.)
Wholesalerj. Identify principal product or service
Prepared Foods

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (1st subsections) 8(b)(5) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act

2 Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

UFCW Local 2013 ("Union") and UTF Trucking, Inc./Fresh Direct ("Company") are parties to a Collective Bargaining Agreement ("CBA") covering the terms and conditions of employment of bargaining unit employees. The CBA expires on August 31, 2014 with the parties preparing to negotiate the terms of a successor CBA in the coming months. With negotiations quickly approaching, the Company has unilaterally implemented or materially changed several policies affecting the terms and conditions of employment. These affected policies include: 2014 Bid Process, Summer Leave, Mixture of Residential and Commercial Delivery, Use of Lockers and Hand Truck Safety. The Union has demanded and the Company has in bad faith refused to bargain and negotiate the terms of these policies in an attempt to undermine the Union prior to contract negotiations. Continued on attached p. 2.

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

United Food and Commercial Workers Union Local 2013

4a. Address (Street and number, city, state, and ZIP code)

9235 4th Avenue
Brooklyn, NY 11209

4b. Tel. No. 800-393-1135

4c. Cell No.

4d. Fax No. 718-745-4692

4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

United Food and Commercial Workers International Union

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief

By

(signature of representative or person making charge)

Mark E. Belland, Esquire

(Print/type name and title or office, if any)

Tel. No. 856-795-2181

Office, if any, Cell No.

Fax No. 856-795-8182

e-Mail

mbelland@obbblaw.com

Address 1526 Berlin Road, Cherry Hill, NJ 08003

4/30/2014

(date)

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)**PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.

Page 2

The Company's refusal to bargain with the Union and unilaterally implement material changes to the terms and conditions of employment immediately prior to contract negotiations infects the bargaining process in violation of 8(a)(5) of the Act.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

May 5, 2014

UNITED FOOD & COMMERCIAL WORKERS UNION, LOCAL 2013
9235 4th Ave
Brooklyn, NY 11209-7006

Re: UTF Trucking, Inc./Fresh Direct
Case 29-CA-127902

Dear Sir or Madam:

The charge that you filed in this case on April 30, 2014 has been docketed as case number 29-CA-127902. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Brady J. Francisco-FitzMaurice whose telephone number is (718)330-2819. If the Board agent is not available, you may contact Attorney NANCY K. REIBSTEIN whose telephone number is (718)330-2147.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing)

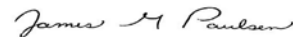
May 5, 2014

through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



JAMES PAULSEN
Regional Director

cc: MARK E. BELLAND, ESQ.
O'Brien, Belland & Bushinsky, LLC
1526 BERLIN ROAD
CHERRY HILL, NJ 08003-3623



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
NLRB
Mobile App

May 5, 2014

Eartha Franklin, Senior Human Resources Business Partner
FRESH DIRECT INC/UTF TRUCKING INC
2330 Borden Ave
Long Island City, NY 11101-4515

Re: UTF Trucking, Inc./Fresh Direct
Case 29-CA-127902

Dear Ms. Franklin:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Brady J. Francisco-FitzMaurice whose telephone number is (718)330-2819. If this Board agent is not available, you may contact Attorney NANCY K. REIBSTEIN whose telephone number is (718)330-2147.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be

May 5, 2014

considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

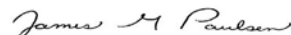
We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,



JAMES PAULSEN
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
TWO METRO TECH CENTER STE 5100
FL 5
BROOKLYN, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579

June 26, 2014

Alan I. Model, Esq.
Littler Mendelson
One Newark Center
1085 Raymond Blvd.
8th Floor
Newark, NJ 07102-5235

Mark E. Belland, Esq.
O'Brien, Belland & Bushinsky, LLC
1526 Berlin Rd.
Cherry Hill, NJ 08003-3623

Re: UTF Trucking, Inc./Fresh Direct
Case 29-CA-127902

Dear Mr. Model, Mr. Belland:

The Region has carefully considered the charge alleging that UTF Trucking, Inc./Fresh Direct Holdings, Inc. violated the National Labor Relations Act. As explained below, I have decided that further proceedings on the charge should be handled in accordance with the deferral policy of the National Labor Relations Board as set forth in *Collyer Insulated Wire*, 192 NLRB 837 (1971), and *United Technologies Corp.*, 268 NLRB 557 (1984). This letter explains that deferral policy, the reasons for my decision to defer further processing of the charge, and the Charging Party's right to appeal my decision.

Deferral Policy: The Board's deferral policy provides that the Board will postpone making a final determination on a charge when a grievance involving the same issue can be processed under the grievance/arbitration provision of the applicable contract. This policy is partially based on the preference that the parties use their contractual grievance procedure to achieve a prompt, fair, and effective settlement of their disputes. Therefore, if an employer agrees to waive contractual time limits and process the related grievance through arbitration if necessary, the Board's Regional Office will defer the charge.

Decision to Defer: Based on our investigation, I am deferring further proceedings on the charge in this matter to the grievance/arbitration process for the following reasons:

1. The Employer and United Food & Commercial Workers Union, Local 2013 have a collective-bargaining agreement currently in effect that provides for final and binding arbitration.

2. The alleged unilateral implementation of material changes to five policies, including the annual bid process, summer travel leave, mixture of residential and commercial delivery assignments, use of lockers, and hand truck safety, as alleged in the charge is encompassed by the terms of the collective-bargaining agreement.

3. The Employer is willing to process a grievance concerning the issues in the charge, and will arbitrate the grievance if necessary. The Employer has also agreed to waive any time limitations in order to ensure that the arbitrator addresses the merits of the dispute.

4. Since the issues in the charge appear to be covered by provisions of the collective-bargaining agreement, it is likely that the issues may be resolved through the grievance/arbitration procedure.

Further Processing of the Charge: As explained below, while the charge is deferred, the Regional office will monitor the processing of the grievance and, under certain circumstances, will resume processing of the charge.

Charging Party's Obligation: Under the Board's *Collyer* deferral policy, the Charging Party has an affirmative obligation to file a grievance, if a grievance has not already been filed. If the Charging Party fails either to promptly submit the grievance to the grievance/arbitration process or declines to have the grievance arbitrated if it is not resolved, I may dismiss the charge.

Charged Party's Conduct: If the Charged Party prevents or impedes resolution of the grievance, raises a defense that the grievance is untimely filed, or refuses to arbitrate the grievance, I will revoke deferral and resume processing of the charge.

Monitoring the Dispute: Approximately every 90 days, the Regional Office will ask the parties about the status of this dispute to determine if the dispute has been resolved and if continued deferral is appropriate. However, at any time, a party may present evidence and request dismissal of the charge, continued deferral of the charge, or issuance of a complaint.

Notice to Arbitrator Form: If the grievance is submitted to an arbitrator, please sign and submit to the arbitrator the enclosed "Notice to Arbitrator" form to ensure that the Region receives a copy of an arbitration award when the arbitrator sends the award to the parties.

Review of Arbitrator's Award or Settlement: If the grievance is arbitrated, the Charging Party may ask the Board to review the arbitrator's award. The request must be in writing and addressed to me. Under current Board law, the request should analyze whether the arbitration process was fair and regular, whether the unfair labor practice allegations in the charge were considered by the arbitrator, and whether the award is consistent with the Act. Further guidance on this review is provided in *Spielberg Manufacturing Company*, 112 NLRB 1080 (1955) and *Olin Corp.*, 268 NLRB 573 (1984). These Board decisions are available on our website, www.nlrb.gov. However,

the current standard for review may change. The General Counsel's position is that the Board should modify its approach in Section 8(a)(1) and (3) cases and should not defer to an award unless the party urging deferral demonstrates that: (1) the contract had the statutory right incorporated in it or the parties presented the statutory issue to the arbitrator; and (2) the arbitrator correctly enunciated the applicable statutory principles, and applied them in deciding the issue. The General Counsel is also taking the position that the Board should not defer to a pre-arbitral-award grievance settlement in Section 8(a)(1) and (3) cases unless the parties intended the settlement to also resolve unfair labor practice issues.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to defer this charge by filing an appeal with the General Counsel of the National Labor Relations Board, through the Office of Appeals. An appeal may be filed by submitting the enclosed Appeal Form (form NLRB-4767), which is also available at www.nlr.gov. However, we encourage the Charging Party to submit a complete statement setting forth the facts and reasons why the decision to defer the charge is incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14th Street, N.W., Washington, D.C. 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date and Time: The appeal is due on July 10, 2014. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than July 9, 2014. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before** July 10, 2014. The request may be filed electronically through the **E-File Documents** link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after July 10, 2014, **even if it is postmarked or given to the delivery service before the due**

date. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

/s/

James G. Paulsen
Regional Director

Enclosures

cc: Eartha Franklin, Senior Human Resources
Business Partner
Fresh Direct Inc/UTF Trucking Inc.
2330 Borden Ave
Long Island City, NY 11101-4515

United Food & Commercial Workers
Union, Local 2013
9235 4th Ave
Brooklyn, NY 11209-7006

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
NOTICE TO ARBITRATOR

TO: _____
(Arbitrator)

(Address)

NLRB Case Number
29-CA-127902

NLRB Case Name: UTF Trucking, Inc./Fresh Direct

A determination has been made by the Regional Director of Region 29 of the National Labor Relations Board to administratively defer to arbitration the further processing of the NLRB charge in the above matter. Further, both parties to the NLRB case have agreed to proceed to arbitration before you in order to resolve the dispute underlying the NLRB charge.

So that the Regional Director can be promptly informed of the status of the arbitration, the undersigned hereby requests that a copy of the arbitration award be sent to Regional Director, Region 29, Two Metrotech Center, Suite 5100, Brooklyn, NY 11201-3838 at the same time that it is sent to the parties in the arbitration.

(Name)

(Title)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 - 14th Street, N.W.
Washington, DC 20570-0001

Date:

I am appealing the action of the Regional Director in deferring the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

Case

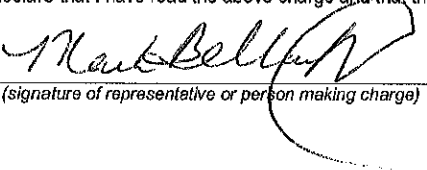
29-CA-207147

Date Filed

9/29/2017

INSTRUCTIONS:

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT					
a. Name of Employer UTF Trucking, Inc./Fresh Direct		b. Tel. No. 718-928-1226			
		c. Cell No.			
		f. Fax No.			
d. Address (Street, city, state, and ZIP code) 23-30 Borden Avenue Long Island City, NY 11101		e. Employer Representative Eartha Franklin, Senior Human Resources Business Partner			
				g. e-Mail efranklin@freshdirect.com	
				h. Number of workers employed	
i. Type of Establishment (factory, mine, wholesaler, etc.) Wholesaler		j. Identify principal product or service Prepared Foods			
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(5) _____ of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.					
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) UFCW Local 2013 ("Union") and Fresh Direct/UTF Holdings ("Employer") are parties to a Collective Bargaining Agreement ("CBA"). During grievance meetings with the Employer, Union representatives have requested routine information from the Employer to further investigate the grievances. The Employer has now engaged in an inappropriate practice by failing to provide the Union with the requested information. By failing to adequately respond to information requests relevant to grievance investigations, the Employer is violating Section 8(a)(5) of the Act.					
3. Full name of party filing charge (if labor organization, give full name, including local name and number) United Food and Commercial Workers Union Local 2013					
4a. Address (Street and number, city, state, and ZIP code) 9235 4th Avenue Brooklyn, NY 11209		4b. Tel. No. 800-393-1135			
		4c. Cell No.			
		4d. Fax No. 718-745-4692			
		4e. e-Mail			
5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) United Food and Commercial Workers International Union					
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.		Tel. No. 856-795-2181			
By  (signature of representative or person making charge)		Office, if any, Cell No.			
Mark E. Belland, Esquire (Print/type name and title or office, if any)		Fax No. 856-795-8182			
Address 1526 Berlin Road, Cherry Hill, NJ 08003		e-Mail mbelland@obbblaw.com			
		9/29/17 (date)			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

PRIVACY ACT STATEMENT

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UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
NLRB
Mobile App

September 29, 2017

Eartha Franklin,
Senior Human Resources Business Partner
UTF Trucking, Inc./Fresh Direct
2330 Borden Ave
Long Island City, NY 11101-4515

Re: UTF Trucking, Inc./Fresh Direct
Case 29-CA-207147

Dear Ms. Franklin:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney RyAnn McKay Hooper whose telephone number is (718)765-6210. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

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Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

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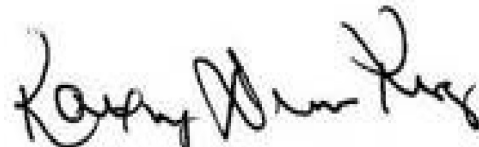
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Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

Enclosures:

1. Copy of Charge
2. Commerce Questionnaire



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlrb.gov
Telephone: (718)330-7713
Fax: (718)330-7579



Download
NLRB
Mobile App

September 29, 2017

United Food and Commercial Workers Union Local 2013
9235 4th Ave
Brooklyn, NY 11209-7006

Re: UTF Trucking, Inc./Fresh Direct
Case 29-CA-207147

Dear Sir or Madam:

The charge that you filed in this case on September 29, 2017 has been docketed as case number 29-CA-207147. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney RyAnn McKay Hooper whose telephone number is (718)765-6210. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.


Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlrb.gov. However, the Agency will continue

to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

cc: Mark E. Belland, ESQ.
O' Brien, Belland & Bushinsky, LLC
1526 Berlin Road
Cherry Hill, NJ 08003-3623

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

U.T.F. TRUCKING, INC./FRESH DIRECT

and

UNITED FOOD AND COMMERCIAL WORKERS UNION
LOCAL 2013

CASE 29-CA-207147

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____
U.T.F. Trucking, Inc./Fresh Direct

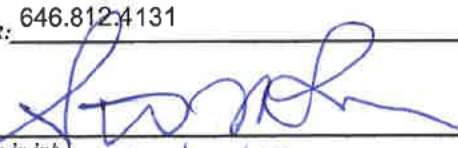
IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Steven M. Swirsky, Esq.
MAILING ADDRESS: Epstein Becker & Green, PC, 250 Park Avenue, New York, NY 10177
E-MAIL ADDRESS: sswirsky@ebglaw.com
OFFICE TELEPHONE NUMBER: 212.351.4640
CELL PHONE NUMBER: 646.812.4131 FAX: _____
SIGNATURE: 
(Please sign in ink.)
DATE: 10/31/17

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579

December 18, 2017

STEVEN M. SWIRSKY, ESQ.
Epstein, Becker & Green, P.C.
250 Park Avenue
New York, NY 10177

Re: UTF Trucking, Inc./Fresh Direct
Case 29-CA-207147

Dear Mr. SWIRSKY:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,


KATHY DREW-KING
Regional Director

cc: Eartha Franklin, Senior Human Resources
Business Partner
UTF Trucking, Inc./Fresh Direct
2330 Borden Ave
Long Island City, NY 11101-4515

Mark E. Belland, ESQ.
O' Brien, Belland & Bushinsky, LLC
1526 Berlin Road
Cherry Hill, NJ 08003-3623

United Food and Commercial Workers
Union Local 2013
9235 4th Ave
Brooklyn, NY 11209-7006